

AMENDED IN SENATE SEPTEMBER 12, 2013

**SENATE BILL**

**No. 51**

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**Introduced by Senator Wright**

December 19, 2012

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An act to add Chapter 5.2 (commencing with Section 19990.01) to Division 8 of, and to repeal Sections 19990.23.5 and 19990.96 of, the Business and Professions Code, relating to Internet gambling, making an appropriation therefor, and declaring the urgency thereof, to take effect immediately.

LEGISLATIVE COUNSEL'S DIGEST

SB 51, as amended, Wright. Internet gambling.

The Gambling Control Act provides for the licensure of certain individuals and establishments that conduct controlled games, as defined, and for the regulation of these gambling activities by the California Gambling Control Commission. The Department of Justice has related investigatory and enforcement duties under the act. Any violation of these provisions is punishable as a misdemeanor, as specified.

This bill would establish a framework to authorize intrastate Internet gambling, as specified. The bill would authorize eligible entities to apply to the commission for a ~~5-year~~ *10-year* license to operate an intrastate Internet gambling Web site offering the play of authorized gambling games to registered players within California. The bill would prohibit the offer or play of any gambling game provided over the Internet that is not authorized by the state pursuant to this bill. The bill would provide that any violation of its provisions is punishable as a misdemeanor. By creating a new crime, this bill would impose a state-mandated local program.

The bill would require a license applicant to pay an application deposit to the commission, for deposit into the Internet Gambling Licensing Fund, as created by the bill, to be continuously appropriated to the department and the commission for the reasonably anticipated costs of investigating the applicant and evaluating the suitability of the applicant. The bill would also create the Internet Gambling Fund, for the deposit of an unspecified regulatory fee, which would be administered by the Controller subject to annual appropriation by the Legislature for the actual costs of license oversight, consumer protection, state regulation, problem gambling programs, and other purposes related to this bill, and which would not be subject to the formulas established by statute directing expenditures from the General Fund. The bill would require each licensee to pay a one-time license fee in the amount of \$30,000,000 \$15,000,000 for deposit in the General Fund. The license fee would be credited against monthly fees imposed on the licensee's gross gaming revenue proceeds, as specified.

Existing law provides that a statute that imposes a requirement that a state agency submit a periodic report to the Legislature is inoperative on a date 4 years after the date the first report is due.

This bill would require the department, notwithstanding that requirement, in consultation with the commission, the Treasurer, and the Franchise Tax Board, to issue a report to the Legislature describing the state's efforts to meet the policy goals articulated in this bill within one year of the operative date of this bill and, annually, thereafter.

The bill would also require the Bureau of State Audits, at least 4 years after the issue date of any license by the state, but no later than 5 years after that date, to issue a report to the Legislature detailing the implementation of this bill, as specified.

The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.

This bill would provide that no reimbursement is required by this act for a specified reason.

This bill would declare that it is to take effect immediately as an urgency statute.

Vote:  $\frac{2}{3}$ . Appropriation: yes. Fiscal committee: yes.  
State-mandated local program: yes.

*The people of the State of California do enact as follows:*

1     SECTION 1. Chapter 5.2 (commencing with Section 19990.01)  
2 is added to Division 8 of the Business and Professions Code, to  
3 read:

4  
5             CHAPTER 5.2. THE INTERNET GAMBLING CONSUMER  
6 PROTECTION AND PUBLIC-PRIVATE PARTNERSHIP ACT OF 2013

7  
8             Article 1. Title, Legislative Declarations, and Statement of  
9                     Legislative Intent

10  
11     19990.01. This chapter shall be known and may be cited as the  
12 Internet Gambling Consumer Protection and Public-Private  
13 Partnership Act of 2013.

14     19990.02. The Legislature hereby finds and declares all of the  
15 following:

16     (a) Californians participate in illegal online gambling on  
17 unregulated Internet gambling Web sites. These Internet gambling  
18 Web sites are operated by offshore operators that are not regulated  
19 by United States authorities. As such, neither federal nor California  
20 laws provide any consumer protections for California players.  
21 California players assume all risks, any negative social or financial  
22 impacts are borne by the citizens of California, and the revenues  
23 generated from online gambling are being realized by offshore  
24 operators and do not provide any benefits to the citizens of  
25 California.

26     (b) The presence, operation, and expansion of offshore,  
27 unlicensed, and unregulated Internet gambling Web sites available  
28 to Californians endanger Californians because the current Internet  
29 gambling Web sites operate illegally and without regulation as  
30 demonstrated by criminal prosecutions of some Internet gambling  
31 purveyors, and questions often arise about the honesty and the  
32 fairness of the games played on these Internet gambling Web sites  
33 as well as about the use of proceeds generated by these unregulated  
34 Internet gambling Web sites.

35     (c) In October 2006, Congress passed the SAFE Port Act (Public  
36 Law 109-347), to increase the security of United States ports.  
37 Embedded within the language of that act was a section entitled  
38 the Unlawful Internet Gambling Enforcement Act of 2006

(UIGEA), which prohibits the use of banking instruments, including credit cards, checks, or fund transfers, for interstate Internet gambling, essentially prohibiting online gambling by United States citizens. UIGEA includes exceptions that permit individual states to create a regulatory framework to enable intrastate Internet gambling, provided the bets or wagers are made exclusively within a single state, whose state laws or regulations comply with all of the following:

(1) Contain certain safeguards regarding those transactions, including both of the following:

(A) Age and location verification requirements.

(B) Data security standards designed to prevent access by minors and persons located outside of that state.

(2) Expressly authorize the bet or wager and the method by which the bet or wager is made.

(3) Do not violate any federal gaming statutes, including all of the following:

(A) The Interstate Horseracing Act of 1978.

(B) The Professional and Amateur Sports Protection Act.

(C) The Gambling Devices Transportation Act.

(D) The Indian Gaming Regulatory Act of 1988 (IGRA).

(d) State provision of Internet gambling consistent with federal law provides California with the means to protect its citizens and consumers under certain conditions by providing a framework to ensure that, among other things, minors are prevented from gambling, citizens participating in gambling activities are protected, and the state is not deprived of income tax revenues to which it would otherwise be entitled.

(e) The state currently maintains and implements substantial regulatory and law enforcement efforts to protect thousands of Californians who gamble and play, among other things, real-money poker in licensed California cardrooms and tribal government casinos, yet the state provides no licensing requirements, regulatory structure, or law enforcement tools to protect millions of Californians who play the same games daily for money on the Internet.

(f) California has a legitimate state interest in protecting the integrity of state-authorized intrastate Internet gaming by licensing only entities already engaged in legal gambling operations subject

1 to the scrutiny and discipline of California regulatory agencies and  
2 that are in good standing with those state agencies.

3 (g) In order to protect Californians who gamble online, allow  
4 state law enforcement to ensure consumer protection, and keep  
5 the revenues generated from Internet gambling in California, it is  
6 in the best interest of the state and its citizens to authorize,  
7 implement, and create a legal system for intrastate Internet  
8 gambling.

9 (h) It is also the interest of the state to provide hundreds of  
10 millions of dollars annually for the public services that have been  
11 cut repeatedly during the state's budget crisis. It is the intent of  
12 the Legislature in enacting this act to ensure that the state realizes  
13 a minimum of two hundred million dollars (\$200,000,000) of  
14 General Fund revenue from licensing fees during the 2013–14  
15 fiscal year.

16 (i) The state's interests are best met by a public-private  
17 partnership between the state and private entities, the terms of  
18 which would facilitate meeting the important consumer protection  
19 interests of the state while ensuring, through the success of the  
20 private entities, that the state receives the benefits of the licensing  
21 scheme as well as tax revenues that it would otherwise not receive.

22 (j) The state's interests are best met by encouraging competition  
23 among qualified entities with the technical expertise and systems  
24 that comply with federal law, protect registered players, and ensure  
25 that the state collects consideration under the licensing scheme  
26 with those qualified entities, personal income taxes owed by  
27 registered players, corporate taxes from the earnings of licensed  
28 entities, and property, employment, and sales and use taxes created  
29 from new businesses, jobs, and other economic inducements from  
30 the authorization, regulation, and control of Internet gambling.

31 (k) The California Gambling Control Commission and the  
32 Department of Justice, in conjunction with other state agencies  
33 and private partners, has the expertise to evaluate the qualifications  
34 of applicants for a license to conduct intrastate Internet gambling  
35 services, and to license the best qualified and most responsive  
36 applicants to meet the needs of the state and its citizens.

37 (l) The authorization of intrastate Internet gambling pursuant  
38 to this chapter does not violate the California Constitution or  
39 interfere with any right under any compact between the state and  
40 any federally recognized Indian tribe. Moreover, the authorization

1 and regulation of intrastate Internet gambling pursuant to this  
2 chapter do not violate the exclusivity provisions of any compact  
3 between the state and any federally recognized Indian tribe. Internet  
4 gambling will take place throughout California. Moreover, the  
5 facilities used in the provision of Internet gambling are not slot  
6 machines or gaming devices as defined in any of those compacts,  
7 and it was not the intent of any party to a tribal-state gaming  
8 compact to prohibit the use of a gaming system, or an Internet  
9 access device not located in a place of public accommodation, to  
10 play nonbanked games that are not subject to the compacts,  
11 including the Internet poker authorized by this act. While the  
12 federal Indian Gaming Regulatory Act ~~of 1988~~ balanced the  
13 interests of three sovereigns, the state, the tribes, and the federal  
14 government, UIGEA was designed to balance the federal interest  
15 in secure financial transactions with the state's power to determine  
16 how online gambling should take place within that state. Finally,  
17 application of UIGEA in California does not violate federal Indian  
18 law by impinging upon protected tribal sovereignty.

19 (m) Nothing in this chapter prohibits any federally recognized  
20 Indian tribe within California with a tribal-state gaming compact  
21 with the state pursuant to IGRA from participating in intrastate  
22 Internet gambling pursuant to these provisions subject to the  
23 jurisdiction of the state.

24 19990.03. It is the intent of the Legislature to create a licensing  
25 and regulatory framework to:

26 (a) Ensure that authorized games are offered only for play in a  
27 manner that is consistent with federal and state law.

28 (b) Authorize the California Gambling Control Commission to  
29 issue licenses, with the recommendation of the Department of  
30 Justice, to applicants that meet the background requirements and  
31 demonstrate the technical expertise to ensure that game play  
32 authorized by this chapter is offered only to registered players who  
33 are physically present within the borders of California at the time  
34 of play and who are 21 years of age or older.

35 (c) Authorize the commission, after any licensee has been  
36 providing authorized games for ~~five~~ 10 years, to renegotiate the  
37 fees paid by the licensees, as provided in this chapter, based in  
38 large part on the report and recommendations of the Bureau of  
39 State Audits to the Legislature pursuant to Section 19990.96, and  
40 subject to the statutory approval of the Legislature. Each existing

licensee shall have the opportunity to agree to any changes in fees and continue in partnership with the state, or to relinquish its license.

(d) Include all of the provisions in this chapter as terms of the license between the state and each licensee, subject to the enforcement provisions delineated in this chapter.

(e) Ensure that each licensee complies with federal and state laws and regulations.

(f) Grant power to the state agencies authorized in this chapter to oversee the operations of each licensee and to enforce the provisions of this chapter to ensure that the interests of the state and registered players are protected.

(g) Establish a process that includes a background investigation and requires that each employee of each licensee or subcontractor receives all necessary licenses and work permits from the state.

(h) Ensure that the state is able to collect income tax revenues from registered players.

(i) Distribute regulatory fees collected by the state from each licensee to the Internet Gambling Fund, as established in Section 19990.86, which shall be administered by the Controller, subject to annual appropriation by the Legislature, and which shall not be subject to the formulas established by law directing expenditures from the General Fund, for the following:

(1) The actual costs of license oversight, consumer protection, state regulation, and problem gambling programs.

(2) Other purposes related to this chapter as the Legislature may decide.

(j) Create systems to protect each registered player's private information and prevent fraud and identity theft.

(k) Ensure that registered players are able to have their financial transactions processed in a secure and transparent fashion.

(l) Ensure that all applicable state agencies will have unrestricted access to the premises and records of each licensee to ensure strict compliance with state law concerning credit authorization, account access, and other security provisions.

(m) Require that each licensee provide registered players with accessible customer service.

(n) Require that each licensee's Internet Web sites contain information relating to problem gambling, including a telephone

1 number that an individual may call to seek information and  
2 assistance for a potential gambling addiction.

3 (o) Require that each licensee and all of its subcontractors be  
4 organized in California. The licensee, its facilities, its bank  
5 accounts and accounting records related to its intrastate online  
6 gambling operations, and its registered players' deposits shall be  
7 located entirely within the state.

8 (p) Ensure that there are no artificial business constraints on the  
9 licensee, such as limits on the percentage of revenues that may be  
10 paid to technology supply contractors or limits on the number of  
11 intrastate Internet gambling Web sites a licensee may operate.  
12 Licensees and suppliers are free to structure their own desired  
13 relationships without interference from the state.

14 (q) Ensure that all employees of the licensee are physically  
15 present in the state when working on the licensee's Internet  
16 gambling Web site or in its facilities connected to the play of  
17 Internet gambling in this state, or when in contact with registered  
18 players. However, the licensee shall have discretion to use the  
19 expertise of personnel not physically present in the state when  
20 necessary to protect registered players and state interests, including,  
21 but not limited to, for the purposes of diagnosing and addressing  
22 technological problems, investigating fraud and collusion, and  
23 supervising software and configuration changes.

24 (r) Create an express exemption from disclosure, pursuant to  
25 the California Public Records Act under subdivision (b) of Section  
26 6253 of the Government Code, that exempts from public disclosure  
27 proprietary information of a license applicant or a licensee in order  
28 to permit disclosure of confidential information to state agencies  
29 while achieving the public policy goals of deploying secure systems  
30 that protect the interests of the state and players.

31 (s) Preserve the authority of the state to opt out of, or opt into,  
32 any federal framework for Internet gambling, or to enter into any  
33 agreement with other states to provide Internet gambling.

34 (t) As a matter of statewide concern, preempt any city, county,  
35 or city and county from enacting any law or ordinance regulating  
36 or taxing any matter covered in this chapter.



Article 2. Definitions

19990.05. For the purposes of this chapter the following words have the following meanings:

(a) “Authorized game” means a game approved by the department pursuant to Section 19990.14 and played using an intrastate Internet Web site pursuant to the authority of the state or offered by a licensee as authorized by the state on an intrastate Internet Web site operated by a licensee pursuant to this chapter.

(b) “Background investigation” means a process of reviewing and compiling personal and criminal history and financial information through inquiries of various law enforcement and public sources to establish a person’s qualifications and suitability for a license.

(c) “Bet” means the placement of a wager in a game.

(d) “Commission” means the California Gambling Control Commission.

(e) “Core functions” and “core functioning” mean any of the following:

(1) The management, administration, or control of wagers on authorized games provided over the Internet.

(2) The management, administration, or control of the games with which those wagers are associated.

(3) The development, maintenance, provision, or operation of a gaming system.

(f) “Department” means the Department of Justice.

(g) “Employee” means any natural person employed in, or serving as a consultant or independent contractor with respect to, the core functioning of the actual operation of an intrastate Internet gambling Web site.

(h) “Employee work permit” means a permit issued to an employee of the licensee or a subcontractor by the commission *or by an authorized tribal regulatory office* after a background investigation.

(i) “Finding of suitability” means a finding by the commission that a person meets the qualification criteria described in Article 4 (commencing with Section 19990.20), and that the person would not be disqualified from being a licensee on any of the grounds specified in Article 4 (commencing with Section 19990.20).

1 (j) “Gambling” means to deal, operate, carry on, conduct,  
2 maintain, or expose for play any game for money.

3 (k) “Game” means any gambling game.

4 (l) “Gaming system” means the technology, including hardware  
5 and software, used by a licensee to facilitate the offering of  
6 authorized games to registered players.

7 (m) “Good standing” means that a person has not had a gambling  
8 or racing license suspended or revoked by a final decision of the  
9 board or commission that issues that license or been finally ordered  
10 by a court of competent jurisdiction to cease conducting gaming  
11 activities. A suspension, revocation, or order shall be deemed final  
12 for purposes of this definition when it is no longer subject to  
13 challenge or appeal through administrative or court processes.

14 (n) “Gross revenues” means the total amount of money paid to  
15 a licensee pursuant to activities authorized under this chapter.  
16 Gross revenues shall not include player deposits and wagers *or*  
17 *other items excluded from gross revenues pursuant to generally*  
18 *accepted accounting principles.*

19 (o) “Internet Gambling Fund” means the fund established  
20 pursuant to Section 19990.86 for annual appropriation by the  
21 Legislature.

22 (p) “Intrastate” means within the borders of California.

23 (q) “Key employee” means any natural person employed by a  
24 licensee, subcontractor, or player recruiter, or by a holding or  
25 intermediary company of a licensee, subcontractor, or player  
26 recruiter, who is an officer or director of the licensee or certificate  
27 holder, or who, in the judgment of the commission, has the  
28 authority to exercise significant influence over decisions  
29 concerning the operation of the licensee or certificate holder as  
30 that operation relates to the Internet gambling authorized by this  
31 chapter.

32 (r) “Land-based gaming entity” means a card club operated  
33 pursuant to Chapter 5 (commencing with Section 19800) or a  
34 casino operated by a federally recognized Indian tribe on Indian  
35 land in California that provides any game for players on its  
36 premises that is offered on an intrastate Internet gambling Web  
37 site.

38 (s) “Licensee” means an entity licensed pursuant to this chapter  
39 to offer the play of authorized games to registered players on an  
40 intrastate Internet Web site.

1 (t) “Online self-exclusion form” means a form on which an  
2 individual notifies a licensee that he or she must be excluded from  
3 participation in authorized games for a stated period of time.

4 (u) “Owner” means any person that has a financial interest in  
5 or control of a licensee, subcontractor, or other entity required to  
6 be found suitable under this chapter.

7 (v) “Per hand charge” means the amount charged by the licensee  
8 for registered players to play in a per hand game.

9 (w) “Per hand game” means an authorized game for which the  
10 licensee charges the player for each hand played.

11 (x) “Person” means an individual, corporation, business trust,  
12 estate, trust, partnership, limited liability company, association,  
13 joint venture, government, governmental subdivision, agency, or  
14 instrumentality, public corporation, or any other legal or  
15 commercial entity.

16 (y) “Play settings” means the options and default parameters  
17 made available by a licensee to a registered player in the play of  
18 authorized games.

19 (z) (1) “Poker” means any of several card games that meet all  
20 of the following criteria:

21 (A) Not banked by either the house or by a player.

22 (B) Commonly referred to as “poker.”

23 (C) Played by two or more individuals who wager against each  
24 other on the cards dealt to them out of a common deck of cards,  
25 including games using electronic devices that simulate a deck of  
26 cards.

27 (D) Players compete against each other and not against the  
28 person or entity operating the game.

29 (E) Success over time is influenced by the skill of the player.

30 (F) Wagers of one player are often designed to affect the  
31 decisions of another player in the game.

32 (G) The operator of the game may assess a fee.

33 (2) “Poker” includes poker tournaments in which players pay  
34 a fee to the operator of the tournament under the authority of the  
35 state pursuant to this chapter.

36 (aa) “Proprietary information” means and includes all  
37 information that, whether or not patentable or registerable under  
38 patent, copyright, trademark, or similar statutes, (1) can be  
39 protected as a trade secret under California law or any other  
40 applicable state law, federal law, or foreign law, or (2) derives

1 independent economic value, actual or potential, from not being  
2 generally known to the public or to other persons that can obtain  
3 economic value from its disclosure or use. “Proprietary  
4 information” includes, but is not limited to, computer programs,  
5 databases, data, algorithms, formulae, expertise, improvements,  
6 discoveries, concepts, inventions, developments, methods, designs,  
7 analyses, drawings, techniques, strategies, new products, reports,  
8 unpublished financial statements, budgets, projections, billing  
9 practices, pricing data, contacts, client and supplier lists, business  
10 and marketing records, working papers, files, systems, plans and  
11 data, and all registrations and applications related thereto.

12 (ab) “Registered player” means a player who has registered with  
13 a licensee to play authorized games.

14 (ac) “Registration information” means the information provided  
15 by a person to a licensee in order to become a registered player.

16 (ad) “Robotic play” means the use of a machine or software by  
17 a registered player or licensee to automate the next player action  
18 at any point in a game.

19 (ae) “State” means the State of California.

20 (af) (1) “Subcontractor” means any person that does any of the  
21 following:

22 (A) On behalf of a licensee, knowingly manages, administers,  
23 or controls wagers on authorized games provided over the Internet  
24 by a licensee pursuant to this chapter.

25 (B) On behalf of a licensee, knowingly manages, administers,  
26 or controls the games with which those wagers are associated.

27 (C) On behalf of a licensee, develops, maintains, provides, or  
28 operates a gaming system.

29 (D) Sells, licenses, or otherwise receives compensation for  
30 selling or licensing information on individuals in California who  
31 made wagers on games over the Internet that were not licensed  
32 under this chapter via a database or customer lists.

33 (E) Provides any product, service, or asset to a licensee and is  
34 paid a percentage of gaming revenue by the licensee, not including  
35 fees to financial institutions and payment providers for facilitating  
36 a deposit by a customer.

37 (F) Provides intellectual property, including the trademarks,  
38 trade names, service marks, or similar intellectual property under  
39 which a licensee identifies its games to its customers.

(2) “Subcontractor” shall not include a provider of goods or services that provides similar goods or services to the public for purposes other than the operation of Internet gambling activities, and is not otherwise directly or indirectly involved in the operation of an intrastate Internet gambling Web site pursuant to a license issued under this chapter.

(ag) “Terms of Use Registered Player’s Agreement” means the agreement offered by a licensee and accepted by a registered player delineating, among other things, permissible and impermissible activities on an intrastate Internet gambling Web site and the consequences of engaging in impermissible activities.

(ah) “Tournament” means a department-approved competition in which registered players play a series of authorized games to decide the winner.

(ai) “Tournament charge” means the amount charged by the licensee for registered players to play in a tournament.

(aj) “Tournament winnings” means the amount of any prize awarded to a registered player in a tournament.

(ak) “Tribe” means a federally recognized California Indian tribe, including, but not limited to, the governing body of that tribe or any entity that is an affiliate of that tribe.

### Article 3. Legal Authorized Games Offered Over the Internet in California

19990.10. Under the federal Unlawful Internet Gambling Enforcement Act of 2006, California is permitted to authorize games as long as all players and the online wagering activities are located within the state and the games are not played by minors.

19990.11. Notwithstanding any other law, a person in California 21 years of age or older is hereby permitted to participate as a registered player in an authorized game provided over the Internet by a licensee as described in this chapter.

19990.12. (a) A person shall not offer any game on the Internet in this state unless that person holds a valid license issued by the state to offer the play of authorized games on an intrastate Internet gambling Web site pursuant to this chapter.

(b) It is unlawful for any person to offer or play any gambling game provided on the Internet that is not authorized by the state pursuant to this chapter.

1 (c) It is unlawful for any person to aggregate computers or other  
2 access devices in a public setting for the purpose of playing  
3 gambling games on the Internet, whether or not otherwise  
4 authorized pursuant to this chapter, or to promote or market that  
5 activity.

6 (d) Any violation of this chapter is punishable as a misdemeanor.  
7 19990.13. Chapter 5 (commencing with Section 19800) does  
8 not apply to this chapter.

9 19990.14. (a) Only poker shall be offered for play on an  
10 intrastate Internet gambling Web site pursuant to this chapter.

11 (b) Only the types of poker games approved by the department  
12 for play on an intrastate Internet gambling Web site shall be offered  
13 for play on an intrastate Internet gambling Web site pursuant to  
14 this chapter.

15  
16 Article 4. Licensing of Intrastate Internet Gambling Web Site  
17 Operators  
18

19 19990.20. (a) A license to operate an intrastate Internet  
20 gambling Web site pursuant to this chapter shall be issued for a  
21 term of ~~five~~ 10 years. Subject to the power of the commission to  
22 deny, revoke, suspend, condition, or limit any license, as provided  
23 in this chapter, a license is eligible for renewal at the end of each  
24 term. Failure of a licensee to file an application for renewal may  
25 be deemed a surrender of the license. The commission shall draft  
26 necessary regulations for the licensing renewal process.

27 (b) All initial licenses issued pursuant to this chapter shall take  
28 effect on the same date, as determined by the department, but not  
29 later than January 1, 2015.

30 19990.21. (a) Each entity described in subdivision (b) is  
31 eligible for a single intrastate Internet gambling license. There is  
32 no limit on the total number of licenses the state may issue. Any  
33 of the eligible entities may jointly apply for a license, either as a  
34 consortium or by forming an entity comprised entirely of eligible  
35 entities. Each eligible entity may have an interest in only a single  
36 license.

37 (b) An entity eligible to apply for, receive, and maintain an  
38 intrastate Internet gambling license pursuant to this chapter includes  
39 all of the following:

(1) A gambling enterprise, as defined in subdivision (m) of Section 19805, that holds an owner license issued pursuant to subdivision (a) of Section 19851, and that has been subject to oversight by, and in good standing with, the commission for the three years immediately preceding its application for licensure.

(2) A federally recognized California Indian tribe operating a casino pursuant to a tribal-state gaming compact under the federal Indian Gaming Regulatory ~~Act of 1988~~, *Act*, or pursuant to procedures prescribed under Section 2710(d)(7)(A)(vii) of Title 25 of the United States Code, that has been subject to oversight by, and in good standing with, the commission and the department for the three years immediately preceding its application for licensure.

(3) A thoroughbred, quarter horse, or harness association licensed by the California Horse Racing Board that has been subject to oversight by, and in good standing with, the board for the three years immediately preceding its application for licensure.

(4) An operator of an online advanced deposit wagering site regulated by the California Horse Racing Board that has been subject to oversight by, and in good standing with, the board for the three years immediately preceding its application for licensure.

(5) A wholly owned subsidiary of any of the entities described in paragraphs (1) to (4), inclusive, created for the purpose of engaging in the activities permitted by this chapter.

(c) For the purposes of this section, incorporation or other change in legal form of ownership during the three years immediately preceding application for licensure shall not disqualify an entity otherwise eligible for licensure pursuant to subdivision (b). Additionally, for the purposes of this section, a group of eligible entities jointly applying for a license, either as a consortium or by forming an entity comprised entirely of eligible entities, need not have been in existence for three years to be eligible for a license pursuant to this section, provided that its members meet all other eligibility requirements of this section.

19990.22. (a) Factors to be considered in evaluating a license applicant shall include, but are not limited to, quality, competence, experience, past performance, efficiency, reliability, financial viability, durability, adaptability, timely performance, integrity, security, and the applicant's subcontractors for core functions.

1 (b) (1) A license applicant, and all subcontractors of the  
2 applicant, shall be a resident of California, or an entity organized  
3 in California, and subject to state taxation, auditing, and  
4 enforcement. All facilities, bank accounts, and accounting records  
5 of the license applicant related to intrastate Internet gambling shall  
6 be located in California.

7 (2) At all times, a license applicant or licensee shall be domiciled  
8 in California and in good standing with the Secretary of State and  
9 the Franchise Tax Board.

10 (3) All subcontractors of a license applicant or licensee, or  
11 persons otherwise providing goods or performing services in  
12 connection with the operation of authorized games for the license  
13 applicant or licensee, or any of its subcontractors, and any persons  
14 that have the authority to exercise significant influence over a  
15 subcontractor shall be subject to this subdivision. If a licensee  
16 desires to enter into an agreement with a person to provide goods  
17 or services in connection with the operation of authorized games,  
18 that person shall be subject to this subdivision and investigation  
19 and a finding of suitability as set forth in Section 19990.23. The  
20 commission may establish a registration process and application  
21 for subcontractors not performing core functions.

22 (c) In addition to any other confidentiality protections afforded  
23 to license applicants, the state and its agencies shall treat the  
24 proprietary information of any license applicant as confidential to  
25 protect the license applicant and to protect the security of any  
26 prospective intrastate Internet gambling Web site. This chapter  
27 does not prohibit the exchange of confidential information among  
28 state agencies considering a license application. The confidentiality  
29 provisions in this chapter exempt proprietary information supplied  
30 by a license applicant to a state agency from public disclosure  
31 consistent with subdivision (b) of Section 6253 of the Government  
32 Code.

33 (d) A license applicant that has been deemed eligible shall  
34 submit to the commission, together with its application, an  
35 application deposit of no less than one million dollars (\$1,000,000),  
36 ~~and no greater than five million dollars (\$5,000,000), as determined~~  
37 ~~by the department, in consultation with the commission,~~ for the  
38 reasonably anticipated costs to complete necessary background  
39 investigation and evaluate the suitability of the applicant. All  
40 moneys collected pursuant to this subdivision shall be deposited



into the Internet Gambling Licensing Fund, as hereby created, to be administered by the department. Notwithstanding Section 13340 of the Government Code, all moneys in the fund are continuously appropriated to the department and the commission, without regard to fiscal years, in the amounts necessary for the department and the commission to perform their duties under this section and Section 19990.23. Any funds associated with the license applicant that remain after completion of background investigation and the finding of suitability shall be refunded to the applicant. If additional moneys are needed to complete the investigation of the license applicant, the applicant shall pay the funds necessary to complete the investigation.

(e) An applicant for an intrastate Internet gambling license pursuant to this chapter that is a federally recognized Indian tribe or an entity that is either wholly owned by a tribe or that consists of one or more tribes shall include with its license application an express waiver of the applicant's sovereign immunity solely for the purposes of investigating the suitability of the applicant, and enforcing this chapter and any regulations promulgated thereunder, and with regard to any claim, sanction, or penalty arising therefrom, against the applicant as a prospective or actual licensee, and for no other purpose.

19990.23. (a) The department shall review the suitability of a license applicant to operate an intrastate Internet gambling Web site.

(b) The department may establish a process to conduct a preliminary determination of suitability based on a partial investigation of license applicants seeking licensure along with a determination of which license applicants may be subject to a partial investigation. A partial investigation is intended to screen out applicants that do not meet the suitability requirements of this chapter. A partial investigation shall include fingerprint-based state and federal criminal history checks and clearances, and inquiries into various public databases regarding credit history and any civil litigation. A partial investigation shall also include a review of the applicant's financial status, which shall include the required submission of a report prepared on behalf of the applicant by a department-approved forensic accounting, audit, or investigative firm, in a format developed by the department, and at the applicant's expense. The report shall include the financial

1 information necessary for the department to make a preliminary  
2 determination of suitability. The department may specify additional  
3 requirements regarding the contents of the report and any other  
4 financial information or documentation required to be submitted  
5 with the application. A full investigation shall be conducted of  
6 only those persons that pass the partial investigation and that will  
7 undergo a full investigation pursuant to subdivision (c). Those  
8 applicants that do not pass the partial investigation may appeal the  
9 decision to the commission.

10 (c) The department shall conduct a full investigation into the  
11 suitability of any license applicant to operate an intrastate Internet  
12 gambling Web site. The investigation shall include all of the  
13 following persons:

14 (1) The license applicant and all of its subcontractors that  
15 provide services related to core functions.

16 (2) All officers of the license applicant.

17 (3) The owner or owners of the following:

18 (A) The license applicant.

19 (B) Any affiliate of the license applicant.

20 (C) Any subcontractors of a license applicant, or other persons  
21 otherwise providing goods to, or performing services for, the  
22 license applicant related to core functions.

23 (D) Any person deemed by the department to have significant  
24 influence over the license applicant or its subcontractors or their  
25 respective operations.

26 (d) A full investigation shall include a review and evaluation  
27 of the license applicant's qualifications and experience to provide  
28 the services anticipated of a licensee, which shall include the  
29 required submission of a report prepared on each applicant by an  
30 outside firm contracted and supervised by the department, in a  
31 format developed by the department, and at the applicant's expense.  
32 The report shall include information necessary for the department  
33 to make a determination of suitability, as specified in regulation,  
34 consisting of, but not limited to, personal history, prior activities  
35 and associations, credit history, civil litigation, past and present  
36 financial affairs and standing, and business activities. The  
37 department may specify additional requirements regarding the  
38 contents of the report and other information or documentation  
39 required to be submitted with the application. The license applicant

1 shall also provide compliance certification of its gaming software  
2 by a department-approved gaming laboratory.

3 (e) (1) Both of the following persons are subject to the  
4 investigation required under subdivision (c):

5 (A) A person that directly or indirectly holds a beneficial interest  
6 or ownership interest of 10 percent or more of a subcontractor or  
7 player recruiter of the licensee. The commission may require any  
8 person with a smaller interest to be found suitable in the exercise  
9 of its discretion where it deems appropriate. If the person is not a  
10 natural person, the department may determine which officers,  
11 directors, and owners of the person are significantly involved in  
12 the management or control of the person as it relates to core  
13 functions so as to require an investigation into suitability.

14 (B) If the owner is a publicly traded or qualified racing  
15 association, then each officer, director, and owner, other than an  
16 institutional investor, of 5 percent or more of the outstanding shares  
17 of the publicly traded corporation.

18 (2) An institutional investor holding more than 10 percent and  
19 less than 25 percent of the equity securities of a subcontractor's  
20 holding or intermediary companies shall be granted a waiver of  
21 any investigation of suitability or other requirement if all of the  
22 following apply:

23 (A) The securities are those of a corporation, whether publicly  
24 traded or privately held.

25 (B) Holdings of those securities were purchased for investment  
26 purposes only.

27 (C) The institutional investor annually files a certified statement  
28 with the department to the effect that it has no intention of  
29 influencing or affecting the affairs of the issuer, the licensee, or  
30 subcontractor, as applicable, or its holding or intermediary  
31 companies.

32 (3) Notwithstanding paragraph (2), the institutional investor  
33 may vote on matters put to the vote of the outstanding security  
34 holders.

35 (4) The certification described in subparagraph (C) of paragraph  
36 (2) shall include a statement that the institutional investor  
37 beneficially owns the equity securities of the corporation for  
38 investment purposes only, and in the ordinary course of business  
39 as an institutional investor, and not for the purpose of (A) causing,  
40 directly or indirectly, the election of members of the board of

1 directors, or (B) effecting any change in the corporate charter,  
2 bylaws, management, policies, or operations of the corporation or  
3 any of its affiliates. The certification also shall indicate any changes  
4 to the structure or operations of the institutional investor that could  
5 affect its classification as an institutional investor, as listed in  
6 paragraph (7). Additionally, the certification shall state that the  
7 institutional investor and corporation shall maintain gaming  
8 compliance policies and procedures to implement and ensure  
9 compliance with this chapter and regulations promulgated  
10 thereunder.

11 (5) An institutional investor granted a waiver under paragraph  
12 (2) that subsequently decides to influence or affect the affairs of  
13 the issuer shall provide not less than 30 days' notice of that intent  
14 and shall file with the department a request for determination of  
15 suitability before taking any action that may influence or affect  
16 the affairs of the issuer. However, the institutional investor may  
17 vote on matters put to the vote of the outstanding security holders.  
18 If an institutional investor changes its investment intent, or the  
19 department finds reasonable cause to believe that the institutional  
20 investor may be found unsuitable, the institutional investor shall  
21 take no action other than divestiture with respect to its security  
22 holdings until it has complied with any requirements established  
23 by the department, which may include the execution of a trust  
24 agreement. The subcontractor and its relevant holding,  
25 intermediary, or subsidiary company shall immediately notify the  
26 department of any information about, or actions of, an institutional  
27 investor holding its equity securities when that information or  
28 action may impact upon the eligibility of the institutional investor  
29 for a waiver pursuant to paragraph (2).

30 (6) If at any time the department finds that an institutional  
31 investor holding any security of a holding or intermediary company  
32 of a subcontractor, or, where relevant, of another affiliate or  
33 subsidiary company of a holding or intermediary company of a  
34 subcontractor that is related in any way to the financing of the  
35 subcontractor, fails to comply with the terms of paragraphs (2) to  
36 (5), inclusive, or if at any time the department finds that, by reason  
37 of the extent or nature of its holdings, whether of debt or equity  
38 securities, an institutional investor is in a position to exercise such  
39 a substantial impact upon the controlling interests of a  
40 subcontractor that investigation and determination of suitability

1 of the institutional investor are necessary to protect the public  
2 interest, the department may take any necessary action otherwise  
3 authorized under this chapter to protect the public interest.

4 (7) For purposes of this subdivision, an “institutional investor”  
5 includes all of the following:

6 (A) Any retirement fund administered by a public agency for  
7 the exclusive benefit of federal, state, or local public employees.

8 (B) An investment company registered under the federal  
9 Investment Company Act of 1940 (15 U.S.C. Sec. 80a-1 et seq.).

10 (C) A collective investment trust organized by banks under Part  
11 Nine of the Rules of the Comptroller of the Currency.

12 (D) A closed-end investment trust.

13 (E) A chartered or licensed life insurance company or property  
14 and casualty insurance company.

15 (F) A federally regulated or state regulated bank, savings and  
16 loan, or other federally or state regulated lending institution.

17 (G) An investment adviser registered under the federal  
18 Investment Advisers Act of 1940 (15 U.S.C. Sec. 80b-1 et seq.).

19 (H) Other persons as the department may determine for reasons  
20 consistent with the public interest.

21 (f) Except as otherwise provided by statute or regulation, every  
22 person, that, by statute or regulation, is required to hold a license  
23 shall obtain a license prior to engaging in the activity, or occupying  
24 the position, with respect to which the license is required. An  
25 applicant for licensing, or for any approval or consent, shall make  
26 a full and true disclosure of all information to the department and  
27 the commission as necessary to carry out the policies of the state  
28 relating to the licensing and control of gambling. The burden of  
29 proving a person’s qualifications to receive a license is on the  
30 applicant.

31 (g) The commission shall issue a finding of suitability for a  
32 license applicant to operate an intrastate Internet gambling Web  
33 site only if, based on all of the information and documents  
34 submitted, the commission is satisfied that each of the persons  
35 subject to investigation pursuant to this section is both of the  
36 following:

37 (1) A person of good character, honesty, and integrity, or, if an  
38 entity, in good standing in its jurisdiction of organization and in  
39 all other jurisdictions in which it is qualified, or should be qualified,  
40 to do business.

(2) A person whose prior activities, criminal record, if any, reputation, habits, and associations do not pose a threat to the public interest of this state, or to the effective regulation and control of controlled gambling, or create or enhance the dangers of unsuitable, unfair, or illegal practices, methods, and activities in the conduct of controlled gambling or in the carrying on of the business and financial arrangements incidental thereto.

(h) The commission shall issue a finding that a license applicant is not suitable to operate an intrastate Internet gambling Web site if it finds that any person subject to investigation pursuant to this section is described by any of the following:

(1) Failed to clearly establish eligibility and qualifications in accordance with this chapter.

(2) Failed to timely provide information, documentation, and assurances required by this chapter or requested by the department, or, with respect to a license applicant, failed to reveal any fact material to qualification, or supplied information that is untrue or misleading as to a material fact pertaining to the suitability criteria.

(3) Been convicted of a felony, including a conviction by a federal court or a court in another state or foreign jurisdiction for a crime that would constitute a felony if committed in California.

(4) Been convicted of any misdemeanor, in any jurisdiction, involving dishonesty or moral turpitude within the 10-year period immediately preceding the submission of the application, unless the applicant has been granted relief pursuant to Section 1203.4, 1203.4a, or 1203.45 of the Penal Code. However, the granting of relief pursuant to Section 1203.4, 1203.4a, or 1203.45 of the Penal Code shall not constitute a limitation on the discretion of the department or affect the applicant's burden.

(5) Has associated with criminal profiteering activity or organized crime, as defined in Section 186.2 of the Penal Code.

(6) Has contemptuously defied any legislative investigative body, or other official investigative body of any state or of the United States or any foreign jurisdiction, when that body is engaged in the investigation of crimes relating to gambling, official corruption related to gambling activities, or criminal profiteering activity or organized crime, as defined in Section 186.2 of the Penal Code.

(7) Is less than 21 years of age.

1 (8) Has knowingly and willfully accepted any wager from a  
2 person in the United States on any form of Internet gaming that  
3 has not been affirmatively authorized by law in this state or the  
4 United States after December 31, 2006, or has been the holder of  
5 a direct or indirect financial interest in a person or entity that has  
6 accepted such a wager.

7 (i) (1) The commission shall reject the license application of  
8 any applicant found to be ineligible for licensure.

9 (2) If denial of the application, or approval of the license with  
10 restrictions or conditions on the license, is recommended, the  
11 department shall prepare and file with the commission written  
12 reasons upon which the recommendation is based. Prior to filing  
13 its recommendation with the commission, the department shall  
14 meet with the applicant, or the applicant's duly authorized  
15 representative, and inform the applicant generally of the basis for  
16 any proposed recommendation that the application be denied,  
17 restricted, or conditioned.

18 (3) This section neither requires the department to divulge to  
19 the applicant any confidential information received from any law  
20 enforcement agency or any information received from any person  
21 with assurances that the information would be maintained  
22 confidential, nor to divulge any information that might reveal the  
23 identity of any informant or jeopardize the safety of any person.

24 (4) Denial of an application shall be without prejudice to a new  
25 and different application filed in accordance with any regulations  
26 adopted by the department with respect to the submission of  
27 applications.

28 (5) A request to withdraw an application for a license may be  
29 made by the license applicant at any time prior to final action on  
30 the application by the department by filing a written request with  
31 the commission to withdraw the application.

32 19990.23.5. (a) A finding of suitability by a state gaming  
33 agency within the United States with expertise recognized within  
34 the gaming industry, and that is also recognized as meeting this  
35 standard by the department, shall be grounds for a state provisional  
36 finding of suitability with respect to a particular person or entity  
37 until a permanent suitability finding is issued by the department  
38 as to that person or entity.

(b) This section shall remain in effect only until January 1, 2017, and as of that date is repealed, unless a later enacted statute, that is enacted before January 1, 2017, deletes or extends that date.

19990.24. In addition to any other data that the department shall request from license applicants as a matter of law and to ensure that any license applicant is legally, technically, and financially qualified to become a licensee, the department shall request that any license applicant name, describe, or provide all of the following:

(a) The license applicant's qualifications and the qualifications of its executives and employees to receive an employee work permit as set forth in Section 19990.31.

(b) The license applicant's experience and qualifications to provide the services anticipated of a licensee as set forth in Article 5 (commencing with Section 19990.30).

(c) The names of all of the license applicant's owners, executives, and employees, as well as sufficient personally identifiable information on each of those persons to conduct background investigations as required by the department.

(d) The fingerprints of the owners, directors, managers, executives, and employees of the licensee, its affiliates, and subcontractors taken using live-scan technology.

(e) Documentation and information relating to the license applicant and its direct and indirect owners, including, but not limited to, all of the following:

(1) With respect to the license applicant and any of its subcontractors, proof of formation in California, including, as applicable, articles of incorporation, articles of organization, bylaws, operating agreement, partnership agreement, or other formation or charter documents.

(2) Current and historical audited financial and accounting records performed in accordance with ~~Generally Accepted Accounting Principles (GAAP)~~ *generally accepted accounting principles* or International Financial Reporting Standards (IFRS).

(3) Any documents relating to legal and regulatory proceedings.

(4) Any documents relating to the license applicant's business history and structure.

(5) Any documents relating to the nature and sources of the license applicant's financing, including, but not limited to, operating agreements, partnership agreements, stock purchase



1 agreements, loan capital agreements, pro forma cap tables, pro  
2 forma statements of profits and loss, investor rights agreements,  
3 voting agreements, and shareholder agreements. These materials  
4 may be submitted subject to a request for confidentiality.

5 (6) Any documentation that demonstrates that the license  
6 applicant is financially qualified to perform the obligations of a  
7 licensee as described in this article.

8 (7) An independent financial audit report by a certified public  
9 accountant.

10 (f) Documentation and information relating to all proposed  
11 subcontractors of the license applicant, including, but not limited  
12 to, all of the following:

13 (1) A description of the services to be provided by each  
14 subcontractor.

15 (2) Information for each subcontractor as set forth in  
16 subdivisions (b), (c), (d), and (e).

17 (3) For subcontractors that are not formed in California, a  
18 commitment in writing by the subcontractor to create a California  
19 subsidiary prior to the commencement of authorized games  
20 provided by the licensee. The commitment required pursuant to  
21 this paragraph shall be subject to the cure provisions of Section  
22 19990.61.

23 (g) A description of the games and services the license applicant  
24 proposes to offer to registered players.

25 (h) A description of the manner in which the licensee's facilities  
26 will accomplish the goals of this chapter, including, but not limited  
27 to:

28 (1) The licensee's location within the state.

29 (2) The licensee's security systems.

30 (i) The license applicant's proposal for the manner in which it  
31 will facilitate compliance with all of the standards set forth in this  
32 chapter and federal law, including, but not limited to, Section  
33 5362(10)(B) of Title 31 of the United States Code, including, but  
34 not limited to, all of the following:

35 (1) Age and location verification requirements reasonably  
36 designed to block access by minors and persons located out of  
37 state.

38 (2) Appropriate data security standards to prevent unauthorized  
39 access by any persons whose age and current location have not

1 been verified in accordance with this chapter and applicable  
2 regulations.

3 (3) The requirement that the licensee be located in California  
4 and all bets be initiated and received or otherwise made exclusively  
5 within California.

6 (j) The system requirements that the license applicant plans to  
7 implement to achieve the state's goals under this chapter, including,  
8 but not limited to:

9 (1) Connectivity.

10 (2) Hardware.

11 (3) Software.

12 (4) Antifraud systems.

13 (5) Virus prevention.

14 (6) Data protection.

15 (7) Access controls.

16 (8) Firewalls.

17 (9) Disaster recovery.

18 (10) Redundancy.

19 (11) Gaming systems, including, but not limited to, hardware  
20 and software that ensure all of the following:

21 (A) The games are legal.

22 (B) The games are independent and fair and played by live  
23 persons.

24 (C) Game and betting rules are available to all registered players.

25 (D) All data used for the conduct of each game is randomly  
26 generated and unpredictable.

27 (12) Accounting systems, ~~including~~ *including*, but not limited  
28 to, those for any of the following:

29 (A) Registered player accounts.

30 (B) Per hand charges.

31 (C) Transparency and reporting to all state agencies.

32 (D) Distribution of funds, pursuant to the license and this  
33 chapter, to the state and registered players.

34 (E) Ongoing auditing and ongoing internal control and  
35 compliance reviews.

36 (13) Facility security systems to protect the intrastate Internet  
37 gambling Web site from internal and external threats.

38 (k) The license applicant's proposal to facilitate the statutory  
39 duties and responsibilities of the state agencies with jurisdiction

1 over aspects of the licensee's operations, including, but not limited  
2 to, all of the following:

- 3 (1) The department.
- 4 (2) The commission.
- 5 (3) The Treasurer.
- 6 (4) The Franchise Tax Board.

7 (l) An acknowledgment by the license applicant that the fees or  
8 terms of the license issued by the state may be modified by the  
9 state after five years, at which point the licensee may either agree  
10 to be subject to that modification or relinquish the license.

11 (m) In addition to demonstrating that the license applicant is  
12 legally, technically, and financially qualified to become a licensee,  
13 a licensee shall also provide compliance certification of its gaming  
14 software by a department-approved gaming laboratory to ensure  
15 that it complies with the requirements of this chapter.

16 19990.25. (a) A holder of an owner license issued pursuant to  
17 subdivision (a) of Section 19851, and that is in good standing,  
18 shall not be deemed unqualified to operate a land-based gambling  
19 entity by reason of an investment in a license applicant or a  
20 licensee.

21 (b) An official representative of the government of a federally  
22 recognized California Indian tribe with a tribal-state gaming  
23 compact with the state shall not be deemed unqualified to operate  
24 a land-based gambling entity by reason of an investment in a  
25 license applicant or a licensee.

26 (c) (1) A license applicant whose application is denied may  
27 bring an action to appeal that decision to the Superior Court of ~~the~~  
28 ~~County of Sacramento~~ *County*. The decision of the Superior Court  
29 of ~~the County of Sacramento~~ *County* is not appealable. No remedy  
30 other than an injunction is available pursuant to this subdivision.

31 (2) The Superior Court of ~~the County of Sacramento~~ *County*  
32 shall uphold the decision by the department if there is any  
33 substantial evidence to support the department's decision to deny  
34 the license application.

35 (3) If the Superior Court of ~~the County of Sacramento~~ *County*  
36 finds for the license applicant, it shall return the application to the  
37 department for action consistent with the decision of the court.

## Article 5. Rights and Obligations of Licensees

19990.30. (a) A licensee shall comply with the terms of this chapter.

(b) In the event of commercial infeasibility created by a change in federal law rendering the provision of intrastate Internet gambling services illegal, or some other event, a licensee may abandon its operations after providing the department with 90 days' advance notice of its intent and a statement explaining its interpretation that continuing to operate the intrastate Internet gambling Web site is commercially infeasible. In response to that notice, the state may file an action in the Superior Court of ~~the County of Sacramento~~ *County* as it deems necessary to protect any state interests, including, but not limited to, the interests of registered players.

(c) If any dispute arises between the state and the licensee, either the department or a licensee may file an action in the superior court of any county in which the department has an office for an interpretation of the rights and responsibilities of the state and the licensee pursuant to this chapter.

19990.31. (a) Prior to initiating operations and thereafter, a licensee shall ensure that each employee has been issued an employee work permit by the department, pursuant to standards adopted by the department, prior to that person having access to the licensee's facilities. The permit shall be renewed every two years.

(b) An employee work permit shall not be issued unless, based on all of the information and documents submitted, the department is satisfied that the applicant is, at a minimum, all of the following:

- (1) A person of good character, honesty, and integrity.
- (2) A person whose prior activities, criminal record, if any, reputation, habits, and associations do not pose a threat to the public interest of this state, or to the effective regulation and control of controlled gambling, or create or enhance the dangers of unsuitable, unfair, or illegal practices, methods, and activities in the conduct of controlled gambling or in the carrying on of incidental business and financial arrangements.
- (3) A person who is in all other respects qualified to hold an employee work permit as provided in this chapter.

1 (c) An applicant for an employee work permit is disqualified  
2 for any of the following reasons:

3 (1) Failure of the applicant to clearly establish eligibility and  
4 qualification in accordance with this chapter.

5 (2) Failure of the applicant to provide timely information,  
6 documentation, and assurances required by this chapter or requested  
7 by any state official, or failure of the applicant to reveal any fact  
8 material to the qualification, or the supplying of information that  
9 is untrue or misleading as to a material fact pertaining to the  
10 qualification criteria.

11 (3) Conviction of a felony, including a conviction by a federal  
12 court, a court in another state, or a court in another country, for a  
13 crime that would constitute a felony if committed in California.

14 (4) Conviction of the applicant for any misdemeanor involving  
15 dishonesty or moral turpitude within the 10-year period  
16 immediately preceding the submission of the application, unless  
17 the applicant has been granted relief pursuant to Section 1203.4,  
18 1203.4a, or 1203.45 of the Penal Code. However, the granting of  
19 relief pursuant to Section 1203.4, 1203.4a, or 1203.45 of the Penal  
20 Code shall not constitute a limitation on the discretion of the  
21 department or affect the applicant's burden under subdivision (b).

22 (5) Association of the applicant with criminal profiteering  
23 activity or organized crime, as defined by Section 186.2 of the  
24 Penal Code.

25 (6) Contemptuous defiance by the applicant of any legislative  
26 investigative body, or other official investigative body of any state  
27 or of the United States, when that body is engaged in the  
28 investigation of crimes relating to gambling, official corruption  
29 related to gambling activities, or criminal profiteering activity or  
30 organized crime, as defined by Section 186.2 of the Penal Code.

31 (7) The applicant is less than 21 years of age.

32 (d) A licensee shall apply for an employee work permit on behalf  
33 of each employee.

34 (e) An employee work permit shall not be issued unless the  
35 applicant meets the qualification standards adopted by the  
36 commission.

37 (f) The department shall establish a fee to be paid by a licensee  
38 for the cost of background investigation on employee work permit  
39 applications submitted on behalf of that licensee's employees. The  
40 department and the commission shall establish processes for the

1 revocation or suspension of an intrastate Internet gambling license  
2 or employee work permit, and to withdraw an application for an  
3 intrastate Internet gambling license or employee work permit.

4 (g) (1) A licensee or subcontractor of a licensee shall not enter  
5 into, without prior approval of the department, any contract or  
6 agreement with a person who is denied a gambling license or  
7 employee work permit pursuant to Chapter 5 (commencing with  
8 Section 19800), or whose gambling license or employee work  
9 permit is suspended or revoked by the department, or with any  
10 business enterprise under the control of that person, after the date  
11 of receipt of notice of the department's action.

12 (2) A licensee or subcontractor of a licensee shall not enter into  
13 any contract or agreement with a person or entity that has  
14 knowingly and willfully accepted any wager from persons in the  
15 United States on any form of Internet gaming that has not been  
16 affirmatively authorized by law in this state or the United States  
17 after December 31, 2006, or has been the holder of a direct or  
18 indirect financial interest in a person or entity that has accepted  
19 such a wager. *The termination of a prosecution of an applicant*  
20 *under the criminal laws of any state, the United States, or other*  
21 *jurisdiction in a manner other than with a conviction is not*  
22 *evidence that the applicant's conduct was unlawful.*

23 (h) A licensee or subcontractor of a licensee shall not employ,  
24 without prior approval of the department, any person in any  
25 capacity for which he or she is required to have an employee work  
26 permit, if the person has been denied a gambling license or an  
27 employee work permit pursuant to Chapter 5 (commencing with  
28 Section 19800), or if his or her gambling license or employee work  
29 permit has been suspended or revoked after the date of receipt of  
30 notice of the action by the department. A licensee or subcontractor  
31 of a licensee shall not enter into a contract or agreement with a  
32 person whose application for a gambling license or an employee  
33 work permit has been withdrawn with prejudice, or with any  
34 business enterprise under the control of that person, for the period  
35 of time during which the person is prohibited from filing a new  
36 application for a gambling license or an employee work permit.

37 (i) If an employee who is required to hold an employee work  
38 permit pursuant to this chapter is denied an employee work permit,  
39 or has his or her employee work permit revoked by the department,  
40 the employee shall be terminated immediately in all capacities.

1 Upon notifying the licensee of the department's action, the  
2 employee shall have no further involvement in the gambling  
3 operation.

4 (1) If an employee who is required to hold an employee work  
5 permit pursuant to this chapter has his or her employee work permit  
6 suspended, the employee shall be suspended in all capacities. Upon  
7 notifying the licensee of the department's action, the employee  
8 shall not be permitted to have any involvement in the gambling  
9 operation during the period of suspension.

10 (2) A licensee or subcontractor of a licensee shall not designate  
11 another employee to replace the employee whose employment was  
12 terminated or suspended, unless the other employee has an existing  
13 work permit.

14 (j) A licensee or subcontractor of a licensee shall not pay to a  
15 person whose employment has been terminated or suspended  
16 pursuant to subdivision (i) any remuneration for any service  
17 performed in any capacity in which the person is required to hold  
18 an employee work permit, except for amounts due for services  
19 rendered before the date of receipt of notice of the department's  
20 action of suspension or termination.

21 (k) Except as provided in subdivision (i), a contract or agreement  
22 for the provision of services or property to a licensee or  
23 subcontractor or for the conduct of any activity pertaining to the  
24 operation of an intrastate Internet gambling Web site, which is to  
25 be performed by a person required by this chapter or by regulations  
26 adopted pursuant to this chapter, to hold an employee work permit,  
27 shall be terminated upon a suspension or revocation of the person's  
28 employee work permit.

29 (l) In any case in which a contract or agreement for the provision  
30 of services or property to a licensee or an affiliate thereof, or for  
31 the conduct of any activity at an intrastate Internet gambling Web  
32 site, is to be performed by a person required by this chapter or by  
33 regulations adopted by the department to hold an employee work  
34 permit, the contract shall be deemed to include a provision for its  
35 termination without liability on the part of the licensee, affiliate,  
36 or subcontractor upon a suspension or revocation of the person's  
37 employee work permit. In any action brought by the department  
38 to terminate a contract pursuant to subdivision (k) or this  
39 subdivision, it shall not be a defense that the agreement does not  
40 expressly include the provision described in this subdivision, and

1 the lack of express inclusion of the provision in the agreement  
2 shall not be a basis for enforcement of the contract by a party  
3 thereto.

4 (m) If a licensee does not comply with the requirements of this  
5 section, the department may impose a civil fine of not more than  
6 \_\_\_\_ dollars (\$\_\_\_\_) per occurrence. In the event that a licensee  
7 negligently, willfully, or wantonly fails to comply with these  
8 requirements, the department may initiate an enforcement action  
9 and subject a licensee to a civil fine of \_\_\_\_ dollars (\$\_\_\_\_) and  
10 may begin proceedings to suspend or revoke the licensee's license.

11 *19990.32.5. The department may enter into agreements with*  
12 *one or more tribal gaming regulatory agencies to issue employee*  
13 *work permits pursuant to Section 19990.31. The department shall*  
14 *only enter into agreements with tribal gaming regulatory agencies*  
15 *with demonstrated expertise in evaluating the suitability of*  
16 *individuals for licensure in land-based gaming activities. Any*  
17 *agreements entered into pursuant to this section shall include*  
18 *provisions requiring the tribal gaming regulatory agency to issue*  
19 *permits in accordance with all applicable statutory and regulatory*  
20 *requirements and shall provide for appeal of adverse permit*  
21 *decisions as required by this chapter.*

22 19990.32. The licensee is responsible for providing current  
23 and accurate documentation on a timely basis to all state agencies,  
24 as provided in this chapter.

25 (a) In addition to any other confidentiality protections provided  
26 to persons licensed by the state, the state and its agencies shall  
27 treat the proprietary information provided by a licensee as  
28 confidential to protect the licensee and to protect the security of  
29 the intrastate Internet gambling Web site.

30 (b) The confidentiality provisions of this chapter exempt  
31 proprietary information supplied by a licensee to a state agency  
32 from public disclosure consistent with subdivision (b) of Section  
33 6253 of the Government Code.

34 19990.33. (a) Changes in ownership of the licensee shall be  
35 approved by the department prior to the closing of any proposed  
36 transaction.

37 (b) The department shall investigate to ensure that any person  
38 acquiring an interest in a licensee is suitable and otherwise  
39 financially, technically, and legally qualified to be a licensee  
40 consistent with this chapter. If an acquiring person is found to be



1 unsuitable to be a licensee or otherwise not financially, technically,  
2 or legally qualified to be a licensee, the licensee or the acquiring  
3 person may challenge that determination consistent with  
4 subdivision (c) of Section 19990.25.

5 19990.34. All facilities, software, including downloadable  
6 programs, and any other property, both tangible and intangible,  
7 used by the licensee in offering authorized games for play on an  
8 intrastate Internet gambling Web site shall be the property of the  
9 licensee or its subcontractors, and shall be approved by the  
10 department.

11 19990.35. (a) A licensee shall ensure that registered players  
12 are eligible to play authorized games and implement appropriate  
13 data security standards to prevent access by a person whose age  
14 and location has not been verified in accordance with this chapter.

15 (b) A registered player shall be physically located within the  
16 State of California at the time of gambling.

17 (c) A registered player shall not be less than 21 years of age.

18 (1) Online games shall not be provided, directly or indirectly,  
19 to any person under 21 years of age.

20 (2) Each licensee shall do all of the following:

21 (A) Prior to registering a person as a registered player or  
22 permitting a person to play an authorized game, the licensee shall  
23 verify that the person is 21 years of age or older. The licensee or  
24 seller shall attempt to match the name, address, and date of birth  
25 provided by the person to information contained in records in a  
26 database of individuals who have been verified to be 21 years of  
27 age or older by reference to an appropriate database of government  
28 records. The licensee also shall verify that the physical billing  
29 address on the check or credit card offered for payment by the  
30 person matches the address listed in the database.

31 (B) If the licensee is unable to verify that the person is 21 years  
32 of age or older pursuant to subparagraph (A), the licensee shall  
33 require the person to submit an age-verification kit consisting of  
34 an attestation signed by the person that he or she is 21 years of age  
35 or older and a copy of a valid form of government identification.  
36 For the purposes of this section, a valid form of government  
37 identification includes a driver's license, state identification card,  
38 passport, official naturalization or immigration document, such as  
39 an alien registration receipt card or an immigrant visa, or United  
40 States military identification. The licensee also shall verify that

1 the physical billing address on the check or credit card provided  
2 by the person matches the address listed in the government  
3 identification.

4 (C) The licensee shall not permit registered players to make  
5 payments by money order or cash. The licensee shall submit to  
6 each credit card company with which it has credit card sales,  
7 information in an appropriate form and format so that the words  
8 “Internet gambling” may be printed on the purchaser’s credit card  
9 statement when a payment to a licensee is made by credit card  
10 payment.

11 (3) If a licensee complies with the requirements of paragraph  
12 (2), and a person under 21 years of age participates in an authorized  
13 game provided by the licensee, the licensee is not in violation of  
14 this section.

15 (4) The department may assess civil penalties against a person  
16 that violates this section, according to the following schedule:

17 (A) Not less than one thousand dollars (\$1,000) and not more  
18 than two thousand dollars (\$2,000) for the first violation.

19 (B) Not less than two thousand five hundred dollars (\$2,500)  
20 and not more than three thousand five hundred dollars (\$3,500)  
21 for the second violation.

22 (C) Not less than four thousand dollars (\$4,000) and not more  
23 than five thousand dollars (\$5,000) for the third violation.

24 (D) Not less than five thousand five hundred dollars (\$5,500)  
25 and not more than six thousand five hundred dollars (\$6,500) for  
26 the fourth violation.

27 (E) Ten thousand dollars (\$10,000) for a fifth or subsequent  
28 violation.

29 (d) The department shall, by regulation, provide a process for  
30 a licensee to exclude from play any person who has filled out an  
31 online self-exclusion form.

32 (1) The department shall develop an online self-exclusion form  
33 within six months of the operative date of this chapter.

34 (2) The department shall deliver the form to each licensee.

35 (3) A licensee shall prominently display a link to the  
36 department’s Responsible Gambling Internet Web page and the  
37 online self-exclusion form on the Internet Web page that is  
38 displayed when either of the following occurs:

39 (A) A person registers as a registered player.

1 (B) Each time a registered player accesses the intrastate Internet  
2 gambling Web site prior to playing.

3 (4) A licensee shall retain the online self-exclusion form to  
4 identify persons who want to be excluded from play.

5 (5) A licensee that has made commercially reasonable efforts  
6 to comply with this subdivision shall not be held liable in any way  
7 if a person who has filled out an online self-exclusion form plays  
8 despite that person's request to be excluded.

9 19990.36. A licensee shall only offer authorized games and  
10 process bets in accordance with the specified game and betting  
11 rules established by the licensee and approved by the department  
12 pursuant to Sections 19990.14 and 19990.37.

13 19990.37. (a) In order to propose a game for play, a licensee  
14 shall provide the department with both of the following:

15 (1) Game rules and betting rules it proposes to offer to  
16 registered players.

17 (2) Documentation relating to development and testing of the  
18 game's software.

19 (b) The department shall approve the game rules and betting  
20 rules before a licensee may offer the game to registered players.

21 19990.38. (a) A licensee shall ensure that games are fair.

22 (b) The gaming system shall display for each game the following  
23 information:

24 (1) The name of the game.

25 (2) Any restrictions on play.

26 (3) The rules of the game.

27 (4) All instructions on how to play.

28 (5) The unit and total bets permitted.

29 (6) The registered player's current account balance which shall  
30 be updated in real time.

31 (7) Any other information that a licensee determines is necessary  
32 for the registered player to have in real time to compete fairly in  
33 the game.

34 (c) Data used to create game results shall be unpredictable so  
35 that it is infeasible to predict the next occurrence in a game, given  
36 complete knowledge of the algorithm or hardware generating the  
37 sequence and all previously generated numbers.

38 (d) A licensee shall deploy controls and technology to minimize  
39 fraud or cheating through collusion, including external exchange

1 of information between different players, robotic play, or any other  
2 means.

3 (1) If a licensee becomes aware that fraud or cheating is taking  
4 place or has taken place, it shall take steps to stop those activities  
5 immediately and inform the department of all relevant facts.

6 (2) The department shall not impose liquidated damages against  
7 a licensee to prevent fraud or cheating if the licensee can  
8 demonstrate that it acted responsibly to prevent those activities as  
9 soon as the licensee became aware of them.

10 (e) In a per hand game, if the gaming server or software does  
11 not allow a game to be completed, the game shall be void and all  
12 funds relating to the incomplete game shall be returned to the  
13 registered player's account.

14 (f) In a tournament, if the gaming server or software does not  
15 allow the tournament to be completed, all prize money shall be  
16 distributed among players in accordance with the procedure  
17 published by the licensee prior to the commencement of the  
18 tournament.

19 19990.39. (a) A licensee shall register players and establish  
20 player accounts prior to play.

21 (b) A person shall not participate in any game provided by a  
22 licensee unless the person is a registered player and holds an  
23 account.

24 (c) Accounts shall be established in person, or by United States  
25 mail, telephone, or any electronic means.

26 (d) To register and establish an account, a person shall provide  
27 the following registration information:

28 (1) Full legal name.

29 (2) Principal residence address.

30 (3) Telephone number.

31 (4) Social security number.

32 (5) Identification or certification to prove that person is at least  
33 21 years of age.

34 (6) Valid email address.

35 (e) A licensee shall provide registered players with the means  
36 to update the registration information provided to the licensee.

37 (f) Nothing in this section shall prevent a licensee from entering  
38 into a marketing agreement with any third party to recruit people  
39 to become registered players if the registration process described  
40 in this section is under the sole control of the licensee.

1 19990.40. (a) A licensee shall provide a means for registered  
2 players to put funds into a registered player account and transfer  
3 funds out of that account.

4 (b) A registered player shall identify the source of funds to be  
5 used to put money into the account established once the registration  
6 process is complete, and a licensee shall provide a means for a  
7 registered player to transfer money into and out of the player's  
8 intrastate Internet gambling Web site account.

9 (c) At the time of establishing an intrastate Internet gambling  
10 Web site account, a registered player shall designate the bank  
11 account into which funds from the registered player's intrastate  
12 Internet gambling Web site account are to be transferred.

13 (d) A registered player shall establish only one account on any  
14 intrastate Internet gambling Web site.

15 (e) While playing an authorized game, a licensee shall not permit  
16 a registered player to increase the amount of money in that  
17 registered player's account after that hand has started and before  
18 its completion.

19 (f) A licensee shall maintain records on the balance of each  
20 registered player's account.

21 (g) A licensee shall not permit a registered player to place a  
22 wager unless the registered player's account has sufficient funds  
23 to cover the amount of the wager.

24 (h) A licensee shall not provide credit to a registered player's  
25 account or act as agent for a credit provider to facilitate the  
26 provision of funds.

27 (i) No interest shall be paid by a licensee with respect to  
28 registered player accounts.

29 19990.41. (a) A licensee shall segregate funds it holds in all  
30 registered player accounts from all of its other assets.

31 (b) A licensee shall not commingle funds in the segregated  
32 account containing funds paid by registered players with any other  
33 funds held by the licensee, including, but not limited to, operating  
34 funds of the licensee. Both the accounts of the licensee and its  
35 segregated registered player accounts shall be held in financial  
36 institutions located in the state.

37 (c) Funds held in a registered player's account shall only be  
38 used for the following purposes:

39 (1) To pay per hand or tournament charges owed by a registered  
40 player to the licensee for play of authorized games.

1 (2) To transfer funds from one registered player's account to  
2 the account of another registered player to reconcile the result of  
3 a loss in the play of an authorized game.

4 (3) To transfer funds from a registered player's account to a  
5 temporary account to be held by a licensee pending the outcome  
6 of an authorized game.

7 (4) To remit tax proceeds due and owing from a registered player  
8 to the Franchise Tax Board.

9 (5) To transfer funds from a registered player's account with  
10 the licensee to an account specified by a registered player upon  
11 that registered player's request.

12 19990.42. Prior to completing the registration process, a  
13 licensee shall explain to the person who is registering in a  
14 conspicuous fashion the privacy policies of the intrastate Internet  
15 gambling Web site, and the person shall assent to the following  
16 policies:

17 (a) No personally identifiable information shall be shared with  
18 any nongovernment third parties except as provided in subdivision  
19 (k) of Section 19990.47.

20 (b) All personally identifiable information about registered  
21 players shall be shared with state agencies, including, but not  
22 limited to, the department, the commission, the Franchise Tax  
23 Board, and the Department of Child Support Services as necessary  
24 to assist them in fulfilling their obligations.

25 (c) Personally identifiable information may be shared with  
26 government agencies only as set forth in subdivision (b) or subject  
27 to court order as provided in subdivision (j) of Section 19990.47.

28 19990.43. A licensee may require that a registered player, or  
29 a person registering as a player, agree to a Terms of Use Registered  
30 Player's Agreement.

31 19990.44. A licensee may suspend or revoke the account of a  
32 registered player for any of the following reasons:

33 (a) A person or registered player provided false information to  
34 the licensee, including, but not limited to, in the registration  
35 process.

36 (b) The registered player has not updated registration  
37 information to keep it current.

38 (c) The registered player has violated the intrastate Internet  
39 gambling Web site's Terms of Use Registered Player's Agreement.

40 (d) The person has already been registered.

1 (e) The licensee suspects that the registered player has  
2 participated in an illegal or unauthorized activity on the intrastate  
3 Internet gambling Web site.

4 (f) The licensee is directed by a state agency to suspend or  
5 revoke the registered player's account.

6 19990.45. (a) Upon registration, and each time a registered  
7 player logs into an intrastate Internet gambling Web site, the  
8 licensee shall permit a registered player to adjust his or her play  
9 settings to:

10 (1) Set a limit on the deposits that can be made per day.

11 (2) Set a limit on the aggregate losses in a registered player's  
12 account within a specified period of time.

13 (b) During play, in order to assist a registered player to decide  
14 whether to suspend play, the registered player's screen shall do  
15 all of the following:

16 (1) Once an hour, indicate how long the player has been playing  
17 and the current value and change in value of the registered player's  
18 total account since the time of last logging in.

19 (2) At least once every six hours, require the registered player  
20 to confirm that the player has read the messages required in  
21 paragraph (1), and give an option to the player to end the session  
22 or return to the game.

23 19990.46. A licensee shall establish a toll-free telephone  
24 customer service hotline that shall be available to registered players  
25 24 hours per day, 365 days a year. All employees shall be  
26 physically present in the state while in contact with registered  
27 players. However, the licensee shall have discretion to use the  
28 expertise of personnel not physically present in the state when  
29 necessary to protect registered players and state interests, including,  
30 but not limited to, for the purposes of diagnosing and addressing  
31 technological problems, investigating fraud and collusion, and  
32 supervising software and configuration changes. The licensee shall  
33 give notice to the department when using personnel who are out  
34 of state.

35 19990.47. (a) A licensee shall protect the privacy of registered  
36 players and their personally identifiable information.

37 (b) A licensee shall comply with all state and federal privacy  
38 and data protection laws.

39 (c) At the time of registration with a licensee as a registered  
40 player, and at least once a year thereafter, a licensee shall provide

1 notice in the form of a separate, written statement, delivered via  
2 United States Postal Service or electronic mail, to the registered  
3 player that clearly and conspicuously informs the registered player  
4 of all of the following:

5 (1) The nature of personally identifiable information collected  
6 or to be collected with respect to the registered player and the  
7 nature of the use of that information.

8 (2) The nature, frequency, and purpose of any disclosure that  
9 may be made of personally identifiable information, including an  
10 identification of the types of persons to whom the disclosure may  
11 be made.

12 (3) The period during which personally identifiable information  
13 will be maintained by the licensee.

14 (4) The times and place at which the registered player may have  
15 access to personally identifiable information in accordance with  
16 subdivision (h).

17 (5) The limitations provided by this section with respect to the  
18 collection and disclosure of personally identifiable information by  
19 a licensee and the right of the registered player under subdivision  
20 (j) or (k) to enforce those limitations.

21 (d) A licensee shall not collect personally identifiable  
22 information concerning any registered player without the prior  
23 written or electronic consent of the registered player concerned.

24 (e) A licensee may collect personally identifiable information  
25 in order to do both of the following:

26 (1) Obtain information necessary to operate the intrastate  
27 Internet gambling Web site and offer authorized games to registered  
28 players pursuant to this chapter.

29 (2) Detect unauthorized play, activities contrary to a licensee's  
30 Terms of Use Registered Player's Agreement, or activities contrary  
31 to state or federal law.

32 (f) Except as provided in subdivision (g), a licensee shall not  
33 disclose personally identifiable information concerning any  
34 registered player without the prior written or electronic consent of  
35 the registered player concerned and shall take actions necessary  
36 to prevent unauthorized access to that information by a person  
37 other than the registered player or licensee.

38 (g) A licensee may disclose personally identifiable information  
39 if the disclosure is any of the following:



1 (1) Necessary to render, or conduct a legitimate business activity  
2 related to, the provision of authorized games to the registered  
3 player by the licensee.

4 (2) Subject to subdivision (k), made pursuant to a court order  
5 authorizing the disclosure, if the registered player is notified of  
6 the order by the person to whom the order is directed.

7 (3) A disclosure of the names and addresses of registered players  
8 to any tournament third party, if both of the following apply:

9 (A) The licensee has provided the registered player the  
10 opportunity to prohibit or limit the disclosure.

11 (B) The disclosure does not reveal, directly or indirectly, the  
12 nature of any transaction made by the registered player over the  
13 intrastate Internet gambling Web site.

14 (4) To the department to fulfill its obligations under this chapter  
15 or a state agency as authorized in this chapter.

16 (5) To persons found suitable under this chapter if the registered  
17 player is notified and consents to the information being shared.

18 (h) A registered player shall be provided access to all personally  
19 identifiable information regarding that registered player that is  
20 collected and maintained by a licensee. The information shall be  
21 made available to the registered player at reasonable times and at  
22 a place designated by the licensee. A registered player shall be  
23 provided reasonable opportunity to correct any error in the  
24 information.

25 (i) A licensee shall destroy personally identifiable information  
26 if the information is no longer necessary for the purpose for which  
27 it was collected, and there are no pending requests or orders for  
28 access to the information under subdivision (k).

29 (j) Any person aggrieved by any act of a licensee in violation  
30 of this section may bring a civil action in any superior court in  
31 California. The court may award:

32 (1) Actual damages but not less than the rate of \_\_\_\_ a day for  
33 each day of violation or \_\_\_\_, whichever is higher.

34 (2) Punitive damages.

35 (3) Reasonable attorney's fees and other litigation costs  
36 reasonably incurred.

37 (k) Except as provided in subdivision (g), a governmental or  
38 nongovernmental third party may obtain personally identifiable  
39 information concerning a registered player pursuant to a court

1 order only if, in the court proceeding relevant to the court order,  
2 both of the following apply:

3 (1) The third party offers clear and convincing evidence that  
4 the subject of the information is reasonably suspected of engaging  
5 in criminal activity or otherwise relevant to a pending civil action  
6 and that the information sought would be material evidence in the  
7 case.

8 (2) The registered player about whom the information is  
9 requested is afforded the opportunity to appear and contest the  
10 third-party's claim.

11 19990.48. A licensee shall establish a book of accounts and  
12 regularly audit all of its financial records and reports, which shall,  
13 at a minimum, include all of the following:

14 (a) Monthly auditable and aggregate financial statements of  
15 gambling transactions.

16 (b) Monthly calculation of all amounts payable to the state.

17 (c) The identity of registered players.

18 (d) The balance on each registered player's account at the start  
19 of a session of play, the amount won or lost by each registered  
20 player during a game, and the balance on the registered player's  
21 account.

22 (e) The wagers placed on each game, time stamped by the games  
23 server.

24 (f) The result of each game, time stamped by the games server.

25 (g) The amount, if any, as determined by the registered player,  
26 withheld from winnings for federal or state income tax purposes.

27 19990.49. (a) A licensee shall make all financial records  
28 established and maintained pursuant to Section 19990.48,  
29 including, but not limited to, all books, records, documents,  
30 financial information, and financial reports, available on an  
31 electronic basis, as required by the department or other state  
32 agencies so that those state agencies can fulfill their responsibilities  
33 under this chapter. A state agency may request specific printed  
34 hard copies of records for good cause.

35 (b) The licensee's data shall be retained in a manner by which  
36 it may be accessed by the state agencies online.

37 (c) Notwithstanding subdivision (b), data covered by  
38 subdivisions (d), (e), and (f) of Section 19990.48 shall be accessible  
39 to the state agencies online for 120 days, and, thereafter, archived  
40 and retained for one year.

1 19990.50. (a) A licensee shall implement technical systems  
2 that materially aid the department in the protection of registered  
3 players. Software shall meet, at a minimum, international industry  
4 standards as verified by a department-approved gaming laboratory.

5 (b) A licensee shall define and document its methodology for  
6 developing software and applications and describe the manner in  
7 which software protects registered players from fraud and other  
8 risks in the play of authorized games and in the management of  
9 registered player accounts.

10 (c) A licensee shall meet minimum game server connectivity  
11 requirements to ensure that registered players are protected from  
12 losses due to connectivity problems.

13 (d) A licensee shall ensure that all transactions involving  
14 registered players' funds shall be recoverable by the system in the  
15 event of a failure or malfunction.

16 (e) All information required for reviewing a game interrupted  
17 due to loss of connectivity shall be recoverable by the licensee.

18 (f) Preventative and detective controls addressing money  
19 laundering and fraud risks shall be documented and implemented  
20 by the licensee.

21 19990.51. (a) A licensee may charge registered players to play  
22 in authorized games.

23 (b) Per hand charges are permitted.

24 (1) A per hand charge shall be designated and conspicuously  
25 posted on the intrastate Internet gambling Web site.

26 (2) A licensee may vary the per hand charges to registered  
27 players based on betting limits or other factors.

28 (c) Tournament charges shall be permitted.

29 (1) A tournament charge shall be designated and conspicuously  
30 posted on the intrastate Internet gambling Web site.

31 (2) A licensee may vary tournament charges based on  
32 tournament prizes or other factors.

33 (d) A licensee shall provide notice to the department of the  
34 charges to registered players prior to initiating play.

35 19990.52. A licensee may enter into an agreement with any  
36 third party to sponsor or underwrite prizes for a tournament.

37 19990.53. A licensee may enter into an agreement to sell  
38 advertisement space on any Internet Web site it controls.

39 19990.535. (a) A licensee may enter into an agreement with  
40 a third party for marketing, or any other purpose consistent with

1 this chapter, including, but not limited to, displaying the name of  
2 a marketing partner on a screen viewed by a registered player.

3 (b) A licensee shall not utilize any brand or business name, trade  
4 or service mark, software, technology, operational systems,  
5 customer information, or other data acquired, derived, or developed  
6 directly or indirectly from any operation that has knowingly and  
7 willfully accepted any wager from persons in the United States on  
8 any form of Internet gaming that has not been affirmatively  
9 authorized by law in this state or the United States after December  
10 31, 2006. To the extent any business relationships or financial  
11 arrangements were utilized or existed to further any such illegal  
12 Internet gambling, those relationships and arrangements shall be  
13 discontinued.

14 19990.54. A licensee may enable a chat function between  
15 registered players if it has in place effective controls against  
16 collusion.

17 19990.55. A licensee may post Internet Web links on the  
18 Internet Web sites it controls to permit registered players to access  
19 remote Internet Web sites.

20 19990.56. A licensee may enter into contractual agreements  
21 with one or more licensees for the purpose of ensuring adequate  
22 player liquidity.

23 19990.57. A licensee may allow a registered player to  
24 participate simultaneously in multiple games or tournaments, if  
25 the licensee has demonstrated to the department that it has technical  
26 controls that prohibit a registered player from playing multiple  
27 hands simultaneously in the same game.

28 19990.58. (a) Before the collection of a registered player fee,  
29 wager, or deposit on any authorized game on the licensee's  
30 intrastate Internet gambling Web site, the licensee shall remit to  
31 the Treasurer for deposit in the General Fund a one-time license  
32 fee in the amount of ~~thirty million dollars (\$30,000,000)~~ *fifteen*  
33 *million dollars (\$15,000,000)*. This amount shall be credited against  
34 fees imposed pursuant to subdivision (b) on the licensee's gross  
35 gaming revenue proceeds for the first five years of operation. Upon  
36 depletion of the license fee, the department shall notify the licensee  
37 to commence monthly payments to the state in accordance with  
38 subdivision (b).

1 (b) A licensee shall remit to the Treasurer on a monthly basis  
2 for deposit in the General Fund, an amount equal to 10 percent of  
3 its gross revenues.

4 (1) Each monthly payment shall be due on the 10th day of the  
5 following month.

6 (2) A licensee shall make all electronic and written financial  
7 records available to the Treasurer, the commission, and the  
8 department on an electronic basis.

9 (3) For the purposes of determining gross revenues, the licensee  
10 and the Treasurer shall use generally accepted accounting  
11 principles.

12 (c) Each licensee shall pay a regulatory fee, to be deposited in  
13 the Internet Gambling Fund as established by Section 19990.86,  
14 in an amount to be determined by the department for the actual  
15 costs of license oversight, consumer protection, state regulation,  
16 problem gambling programs, and other purposes related to this  
17 chapter.

18 19990.59. (a) The licensee shall facilitate the collection of  
19 personal income taxes from registered players by the Franchise  
20 Tax Board.

21 (b) The licensee shall withhold 5 percent of tournament winnings  
22 for state income tax if the winnings less the tournament charge are  
23 more than six hundred dollars (\$600) and are at least 300 times  
24 the tournament charge.

25 (1) The licensee shall transfer that withheld income to the  
26 Franchise Tax Board.

27 (2) Winnings and losses of the registered player from other  
28 tournaments sponsored by the licensee during the year are not  
29 taken into account in arriving at the six-hundred-dollar (\$600)  
30 amount. Required withholding is determined on a  
31 tournament-by-tournament basis.

32 (c) Within six months of the operative date of this chapter, the  
33 Franchise Tax Board shall publish a form to be used annually by  
34 a licensee to report information concerning income tax revenues  
35 from registered players. The Franchise Tax Board shall provide a  
36 date by which the form is required to be filed. The form shall  
37 include, but shall not be limited to, the following information:

38 (1) The registered player's first name and surname.

39 (2) Social security number.

1 (3) The total amount the registered player deposited in his or  
2 her account during the year.

3 (4) The registered player's total winnings, if any, during the  
4 year.

5 (5) The registered player's total losses, if any, during the year.

6 (6) The total amount withheld by the licensee, if any, during  
7 the year for purposes of federal or state income taxes.

8 (7) Whether the registered player opened or closed his or her  
9 account during the year.

10 (d) The licensee shall electronically file a copy of the form with  
11 the Franchise Tax Board for each registered player who held an  
12 account with the licensee for all, or any portion of, the taxable  
13 year. The licensee shall electronically provide each registered  
14 player with a copy of the form.

15 19990.60. A security interest in a licensee, other than a security  
16 interest in financed or leased equipment, shall not be enforced  
17 except in conformity with regulations adopted by the commission.  
18 If a licensee contracts to acquire or transfer any assets or property  
19 in circumstances where the transferor or transferee must be licensed  
20 or found suitable, then the transaction shall not have a closing date  
21 prior to the approval or licensing of the other party, except as  
22 provided in regulations of the commission.

23 19990.61. (a) A licensee shall act expeditiously to cure any  
24 violation of this chapter, or any regulation adopted pursuant to this  
25 chapter, in the offer or administration of authorized games that  
26 interferes with its obligations to the state or registered players  
27 under this chapter.

28 (b) If a licensee becomes aware of any violation, it shall notify  
29 the department immediately and work with the department to  
30 develop a plan to rectify the violation.

31 (c) If the department becomes aware of any violation, or if it  
32 becomes aware of any activities that might lead to a violation, the  
33 department shall provide notice of that violation to the licensee  
34 and a reasonable opportunity to cure the violation.

35 (d) All state agencies with responsibilities under this chapter  
36 shall report any actual or suspected violation of this chapter, or  
37 any regulation adopted pursuant to this chapter, or activities that  
38 may lead to such a violation, to the department immediately so  
39 that the department can assess whether it needs to commence an  
40 investigation or enforcement action.

1 (e) A licensee shall be afforded a reasonable time period to cure  
2 any reported violation. The department may assess penalties for  
3 any violation of this chapter, or any regulation adopted pursuant  
4 to this chapter.

5 (f) The department shall have the subpoena power in an  
6 investigation of any violation of this chapter, or any regulation  
7 adopted pursuant to this chapter.

8 (g) The department may revoke or suspend any license or work  
9 permit under this chapter upon reaching a finding that the licensee  
10 or employee is in violation of any provision of this chapter, or any  
11 regulation adopted pursuant to this chapter.

12 (h) A licensee may appeal any decision of the department  
13 pursuant to this section to the superior court. The superior court  
14 shall hear any appeal de novo.

15 19990.62. The department shall protect the rights and assets  
16 of registered players on an intrastate Internet gambling Web site  
17 if the licensee's license pursuant to this chapter is revoked or the  
18 licensee becomes bankrupt.

19 19990.63. (a) A licensee shall at all times indemnify, defend,  
20 and hold harmless the state and its agencies from and against any  
21 claims, damages, liabilities, costs, and expenses, including, but  
22 not limited to, reasonable attorney's fees and expenses arising out  
23 of any third-party claim made against the state or any of its  
24 agencies relating to actions of the licensee and this chapter.  
25 However, the state shall not enter into a settlement agreement  
26 related to any of those claims, damages, liabilities, costs, or  
27 expenses without the prior written approval of the licensee.

28 (b) The state and its agencies shall promptly notify a licensee  
29 of any claim or litigation to which the indemnity set forth in  
30 subdivision (a) applies.

31 (c) At the option of a licensee, it may assume the defense of  
32 any claim or litigation. If a licensee assumes the defense of any  
33 claim or litigation, the licensee's obligation with respect thereto  
34 shall be limited to the payment of any settlement approved by the  
35 licensee, or any judgment in connection with that claim or  
36 litigation.

## Article 6. Authority of State Agencies

19990.70. (a) (1) Within 120 days after the operative date of this chapter, the commission, and any other state agency with a duty pursuant to this chapter, shall, in order to comply with time deadlines, in consultation with the department, adopt regulations to implement this chapter, and to facilitate the operation of intrastate Internet gambling Web sites and expedite the state's receipt of revenues in compliance with this chapter. The initial adoption, amendment, or repeal of a regulation authorized by this section is deemed to address an emergency, for purposes of Sections 11346.1 and 11349.6 of the Government Code, and the commission and those other state agencies are hereby exempted for that purpose from the requirements of subdivision (b) of Section 11346.1 of the Government Code. After the initial adoption, amendment, or repeal of an emergency regulation pursuant to this section, the commission and those other state agencies shall not request approval from the Office of Administrative Law to readopt the regulation as an emergency regulation pursuant to Section 11346.1 of the Government Code, but shall promulgate permanent regulations in accordance with all applicable law.

(2) The regulations adopted by the commission shall address underage gambling and problem gambling.

(3) The regulations of the commission also shall provide for temporary or provisional approvals, licenses, or certificates for heirs, executors, receivers, trustees, conservators, key employees, and other persons where an approval, license, or certificate is required.

(b) (1) Each state agency with a duty pursuant to this chapter shall identify a contact person at that agency and describe the responsibility of the contact with respect to the state agency's duty.

(2) Any notice provided by a licensee to a state agency pursuant to this chapter shall be addressed to the contact identified by the state agency pursuant to paragraph (1).

(3) Unless otherwise provided by this chapter, notice by a licensee to the state shall be deemed effectively given upon personal delivery, three days after deposit in the United States mail by certified or registered mail, return receipt requested, one business day after its deposit with any return receipt express



1 courier, prepaid, or one business day after electronically confirmed  
2 transmission by facsimile.

3 19990.71. The Legislature may, by a statute adopted by a  
4 majority vote of both houses, do either of the following:

5 (a) Opt out of, or opt into, any federal framework for Internet  
6 gambling.

7 (b) If the United States Department of Justice notifies the  
8 department in writing that it is permissible under federal law, enter  
9 into any agreement with other states or foreign jurisdictions to  
10 provide Internet gambling.

11 19990.72. The department may outsource its regulatory  
12 functions under this chapter where optimal to provide efficient,  
13 effective, and robust regulation with access to worldwide expertise  
14 tested and proven in the gambling industry. This may include, but  
15 is not limited to, state and international regulatory agencies. To  
16 expedite the implementation of Internet gambling, contracts  
17 pursuant to this section shall not be subject to otherwise applicable  
18 provisions of the Government Code or the Public Contract Code  
19 and, for those purposes, the department shall not be considered a  
20 state agency or public entity.

21  
22 Article 7. Protection of Registered Players  
23

24 19990.75. A licensee shall use its best efforts to protect  
25 registered players. Subject to the approval of the department, and  
26 consistent with uniform standards established by the department  
27 by regulation, each licensee shall establish administrative  
28 procedures to resolve registered player complaints.

29 19990.76. If a registered player has a complaint against a  
30 licensee, the exclusive remedy shall be to register the complaint  
31 with the department, unless an action is brought pursuant to  
32 subdivision (j) of Section 19990.47.

33 19990.77. (a) The department, in consultation with the  
34 commission, shall establish regulations with respect to registered  
35 player complaints.

36 (b) Under the regulations, the department shall do all of the  
37 following:

38 (1) Investigate registered player complaints to determine if a  
39 licensee has failed to meet its obligations to a registered player.

1 (2) Attempt to resolve complaints by registered players if a  
2 licensee fails to meet an obligation to a registered player.

3 (3) Initiate enforcement actions to require specific performance  
4 of any obligation that a licensee has to a registered player and  
5 payment by the licensee of restitution to a registered player for  
6 actual losses and interest thereon.

7 19990.78. A licensee may appeal any action by the department  
8 pursuant to this article to the superior court, which shall review  
9 the appeal de novo.

10  
11 Article 8. Disposition of State Regulatory Proceeds  
12

13 19990.86. (a) The Treasurer shall transfer all amounts received  
14 from a licensee pursuant to subdivision (c) of Section 19990.58  
15 to the Controller for deposit in the Internet Gambling Fund, which  
16 is created in the State Treasury, to be administered by the  
17 Controller, subject to annual appropriation by the Legislature.  
18 These amounts shall not be subject to the formulas established by  
19 statute directing expenditures from the General Fund.

20 (b) The state agencies shall submit revenue needs to fulfill their  
21 obligations under this chapter for the upcoming fiscal year to the  
22 Senate Committee on Budget and Fiscal Review and the Assembly  
23 Committee on Budget, as well as the Senate and Assembly  
24 Committees on Governmental Organization and the Department  
25 of Finance on or before March 31 of the preceding fiscal year. A  
26 justification of those costs shall be provided with each submission  
27 of revenue needs.

28 (c) The State Department of Alcohol and Drug Programs, Office  
29 of Problem Gambling, shall submit revenue needs for programs  
30 to alleviate problem gambling that results from the offering of  
31 authorized games for the upcoming fiscal year to the Senate  
32 Committee on Budget and Fiscal Review and the Assembly  
33 Committee on Budget, as well as the Senate and Assembly  
34 Committees on Governmental Organization, the Senate and  
35 Assembly Committees on Human Services, and the Department  
36 of Finance on or before March 31 of the preceding fiscal year. A  
37 justification of those costs shall be provided with each submission  
38 of revenue needs.

1 (d) All remaining proceeds not allocated to subdivisions (b) and  
2 (c) shall remain in the Internet Gambling Fund subject to  
3 appropriation by the Legislature.  
4

5 Article 9. Preemption of Local Regulation  
6

7 19990.90. A city, county, or city and county shall not regulate,  
8 tax, or enter into a contract with respect to any matter related to  
9 this chapter. This section shall not prohibit or limit the investigation  
10 and prosecution of any violation of this chapter.  
11

12 Article 10. Reports to the Legislature  
13

14 19990.95. Notwithstanding Section 10231.5 of the Government  
15 Code, within one year of the operative date of this chapter and,  
16 annually thereafter, the department, in consultation with the  
17 commission, the Treasurer, and the Franchise Tax Board, shall  
18 issue a report to the Legislature describing the state's efforts to  
19 meet the policy goals articulated in this chapter. The report shall  
20 be submitted in compliance with Section 9795 of the Government  
21 Code.

22 19990.96. (a) At least four years after the issue date of any  
23 license pursuant to this chapter, but no later than five years after  
24 that date, the Bureau of State Audits shall issue a report to the  
25 Legislature detailing the implementation of this chapter. The State  
26 Auditor may advise the Legislature on any recommendations  
27 regarding the terms of licensure, including the consideration paid  
28 to the state, the economic and operational impacts upon the licensee  
29 and the state, and any other issues that may be relevant to the state's  
30 decision whether to impose modifications on existing licensees'  
31 fees or terms of licensure. The report may also advise the  
32 Legislature as to any proposed changes to Article 5 (commencing  
33 with Section 19990.30) of this chapter.

34 (b) A report submitted pursuant to subdivision (a) shall be  
35 submitted in compliance with Section 9795 of the Government  
36 Code.

37 (c) Pursuant to Section 10231.5 of the Government Code, this  
38 section is repealed on January 1, 2020.

39 SEC. 2. The Legislature finds and declares that Section 1 of  
40 this act, which adds Chapter 5.2 (commencing with Section

1 19990.01) to Division 8 of the Business and Professions Code,  
2 imposes a limitation on the public's right of access to the meetings  
3 of public bodies or the writings of public officials and agencies  
4 within the meaning of Section 3 of Article I of the California  
5 Constitution. Pursuant to that constitutional provision, the  
6 Legislature makes the following findings to demonstrate the interest  
7 protected by this limitation and the need for protecting that interest:

8 The limitations on the people's rights of access set forth in this  
9 chapter are necessary to protect the privacy and integrity of  
10 information submitted by the registered players as well as the  
11 proprietary information of the license applicants and licensees.

12 SEC. 3. No reimbursement is required by this act pursuant to  
13 Section 6 of Article XIII B of the California Constitution because  
14 the only costs that may be incurred by a local agency or school  
15 district will be incurred because this act creates a new crime or  
16 infraction, eliminates a crime or infraction, or changes the penalty  
17 for a crime or infraction, within the meaning of Section 17556 of  
18 the Government Code, or changes the definition of a crime within  
19 the meaning of Section 6 of Article XIII B of the California  
20 Constitution.

21 SEC. 4. This act is an urgency statute necessary for the  
22 immediate preservation of the public peace, health, or safety within  
23 the meaning of Article IV of the Constitution and shall go into  
24 immediate effect. The facts constituting the necessity are:

25 In order to protect the interests of Californians who play online  
26 gambling games and to ensure that people play fair games, that  
27 the state realizes the revenues, and that suitable persons operate  
28 intrastate Internet gambling Web sites, it is necessary that this act  
29 take effect immediately.